



2012

REPORT TO THE PRESIDENT



CONTROLLED
UNCLASSIFIED
INFORMATION

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November 20, 2012

The President
The White House
1600 Pennsylvania Avenue
Washington, D.C. 20500

Dear Mr. President:

The Controlled Unclassified Information (CUI) Office of the National Archives and Records Administration (NARA) is pleased to submit its second annual report on the implementation of Executive Order 13556, "Controlled Unclassified Information" (the Order) in NARA's capacity as the Executive Agent for CUI. This report covers CUI program development from October 1, 2011 to September 30, 2012 (FY2012). The submission of this Report occurs while we are formalizing comprehensive program guidance for submission to the federal rule-making process.

Per the requirements set forth in the Order, the Executive Agent published the online CUI Registry on November 4, 2011. At this writing, the Registry includes 22 categories, 85 associated sub-categories and 464 authority citations based on more than 2,200 agency submissions from departments and agencies across the Executive branch.

During FY2012, the Executive Agent continued its collaboration with stakeholders using overlapping timelines and an iterative strategy to develop program guidance to prescribe practices for safeguarding, dissemination, decontrol and marking of CUI. These policy elements will be incorporated into the CUI Registry to provide a central repository for common definitions and protocols for marking, and procedures for properly safeguarding, disseminating, and decontrolling unclassified information.

Ongoing outreach by the Executive Agent aims to ensure full participation of Executive branch departments and agencies by engaging senior leadership in dialogue to directly address individual agency interests and concerns.

Deliberate, continuous effort will be required for successful CUI implementation. The Executive Agent is well positioned to serve as a resource for departments and agencies to ensure coordination and proper implementation of the Order throughout the Executive branch.

Respectfully,

John P. Fitzpatrick

Director, Information Security Oversight Office
National Archives and Records Administration

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CONTROLLED UNCLASSIFIED INFORMATION (CUI)

BACKGROUND

Historically, Executive departments and agencies have employed ad-hoc, agency-specific policies, procedures, and markings to safeguard and control the dissemination of Sensitive But Unclassified (SBU) information. As a result, more than 100 different policies and markings have evolved for handling such information across the Executive branch. This inefficient, confusing patchwork system has resulted in inconsistent marking and safeguarding of documents, led to unclear or unnecessarily restrictive dissemination policies, and created impediments to authorized information sharing.

The goal of the Controlled Unclassified Information (CUI) program is to standardize the way the Executive branch handles such information while emphasizing and enhancing the openness, transparency, and uniformity of government-wide practices. Executive Order 13556, “Controlled Unclassified Information,” November 4, 2010 (the Order)¹ established the CUI program and designated the National Archives and Records Administration (NARA) as its Executive Agent (EA). NARA established the CUI Office, within the Information Security Oversight Office, to manage the program and fulfill EA responsibilities per the Order.

On June 9, 2011, the EA issued “Controlled Unclassified Information (CUI) EA Notice 2011-01: Implementation Guidance for Executive Order 13556”² to provide baseline requirements for agency-specific CUI policies and procedures and to support uniformity of government-wide practice as it pertains to unclassified information. Also during FY2011, federal departments and agencies reviewed their respective SBU information practices and submitted to the EA those categories and subcategories that the department or agency would like to continue to employ.

¹ Executive Order 13556 “Controlled Unclassified Information,” dated November 4, 2010.

² “Controlled Unclassified Information (CUI) EA Notice 2011-01: Implementation Guidance for Executive Order 13556,” dated June 9, 2011.

SUMMARY OF FY2012 PROGRAM ACTIVITY

REGISTRY

During FY2012, the EA reviewed more than 2,200 proposed category and subcategory submissions from 47 departments and agencies. Similar proposals were consolidated to eliminate redundancies and provide consistency among like categories. The EA led interagency discussions to establish an Executive branch-wide initial structure of 16 approved categories and 74 associated subcategories for CUI, based on 398 unique safeguarding, dissemination and sanction citations in law, regulations, and government-wide policies. These categories and subcategories were published in the online CUI Registry on November 4, 2011. Nearly 6,000 visits were logged to the Registry during FY2012.³

Following initial launch, the EA continues to review requests for additional CUI categories and subcategories, verifying authorization in law, regulation or government-wide-policy, incorporating or adding categories, subcategories, and authorities to the Registry as needed. When fully developed, the Registry will reflect all approved categories, subcategories and markings, along with applicable safeguarding, dissemination, and decontrol procedures.

³ Registry visit data provided by WebTrends Analytics 8™; report created on Tuesday, October 9, 2012.

WebTrends Reporting Center is a web site analysis and tracking tool that delivers real-time, accurate, aggregated data regarding visitors' use of web sites maintained on NARA servers.

SUMMARY OF FY2012 PROGRAM ACTIVITY

Sample CUI Registry Detail

CUI Registry									
Category-Subcategory Authorities									
Category-Subcategory:	Patent-Invention								
Category Description:	Patent is a property right granted by the Government of the United States of America to an inventor "to exclude others from making, using, offering for sale, or selling the invention throughout the United States or importing the invention into the United States" for a limited time in exchange for public disclosure of the invention when the patent is granted.								
Subcategory Description:	An invention is any art or process (way of doing or making things), machine, manufacture, design, or composition of matter, or any new and useful improvement thereof, or any variety of plant, which is or may be patentable under the patent laws of the United States, in which the federal government owns or may own a right, title, or interest.								
<p>Select Safeguarding/Dissemination or Sanction Authority to view statutory/regulatory language in a new window. Authority links are updated based on regular re-publication of the United States Code and Code of Federal Regulations.</p> <table border="1"><thead><tr><th>Safeguarding and/or Dissemination Authority</th><th>Sanctions</th></tr></thead><tbody><tr><td>35 USC 205</td><td>35 USC 186 35 USC 187</td></tr><tr><td>48 CFR 27.302</td><td></td></tr><tr><td>48 CFR 27.305-4</td><td></td></tr></tbody></table>		Safeguarding and/or Dissemination Authority	Sanctions	35 USC 205	35 USC 186 35 USC 187	48 CFR 27.302		48 CFR 27.305-4	
Safeguarding and/or Dissemination Authority	Sanctions								
35 USC 205	35 USC 186 35 USC 187								
48 CFR 27.302									
48 CFR 27.305-4									

Figure 1

SUMMARY OF FY2012 PROGRAM ACTIVITY

POLICY

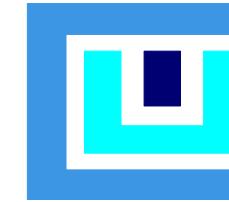
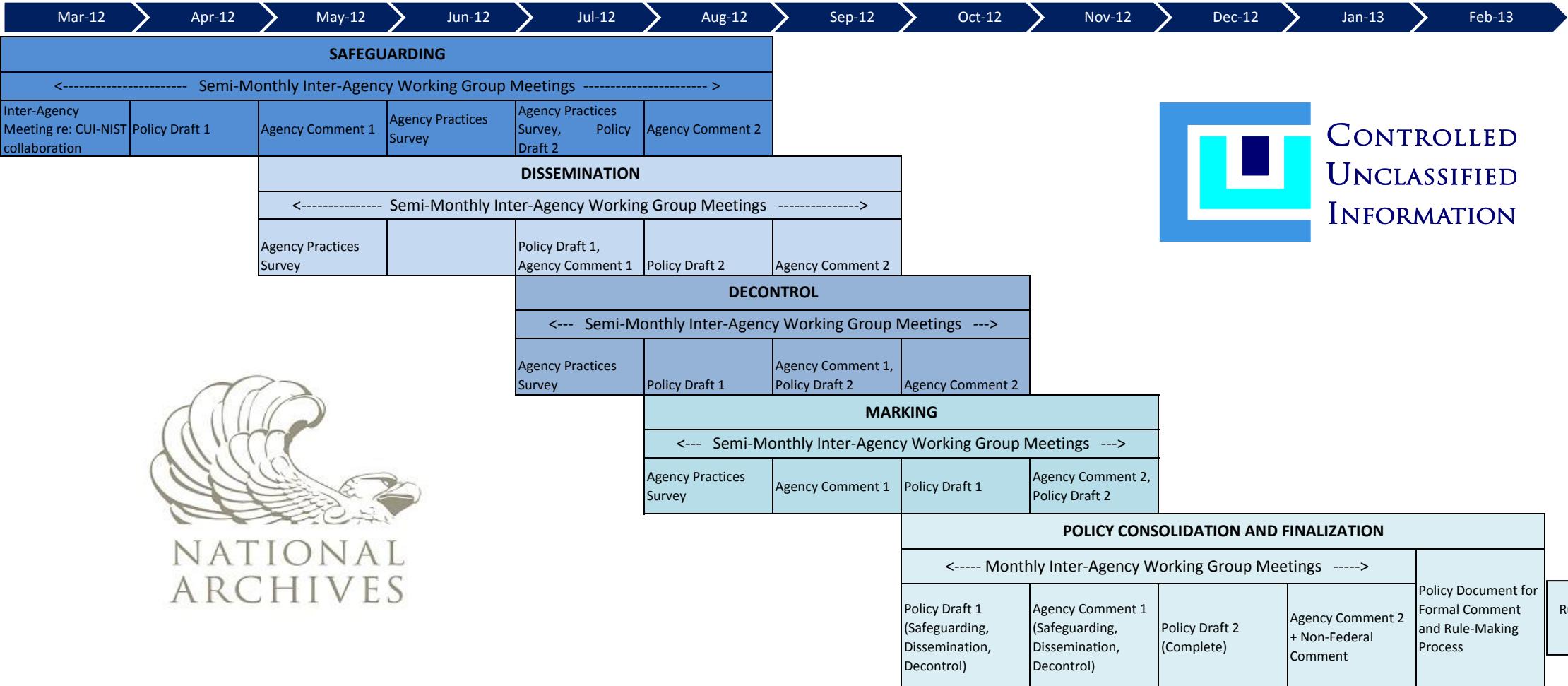
Beginning in December 2011, the EA began focusing on supplemental policy development to prescribe practices for safeguarding, dissemination, decontrol, and marking of CUI. To promote the fullest participation of stakeholder agencies' subject matter experts, each policy component was introduced along a progressive timeline that interspersed:

- Working group discussions
- Surveys of current agency practices
- Consolidation/Aggregation of Executive branch-wide practices
- Policy drafting
- Informal agency comment/EA adjudication (minimum 2 rounds per policy element)
- Policy integration/editing

This iterative strategy was launched in March 2012. The EA hosted semi-monthly working group meetings to provide status updates and promote collaborative review. A timeline of policy development activities, extending into FY2013, is diagrammed in the fold-out insert of this report.

In addition, the EA has continued to collaborate with the National Institute of Standards and Technology (NIST) regarding the nexus of proposed CUI policy with NIST standards for federal information and information systems.

CUI POLICY DEVELOPMENT TIMELINE
MARCH 2012 - SEPTEMBER 2012
and
OCTOBER 2012 - FEBRUARY 2013 (projected)



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SUMMARY OF FY2012 PROGRAM ACTIVITY

OUTREACH

On November 22, 2011, the EA and the Office of Information Policy at the Department of Justice issued *Guidance Regarding CUI and the Freedom of Information Act* in response to inquiries regarding the relationship between CUI and the Freedom of Information Act, and to provide additional clarity as to the intent of policy references.

Contacts between international and American colleagues provide benefits from shared insights and lessons learned. In February 2012, the Information Security Oversight Office (ISOO) hosted British government representatives for policy discussions and meetings concerning reforms under consideration for the United Kingdom's (UK) security system for unclassified and classified information. At a follow-up meeting in June 2012, a comparative analysis between the CUI program and current work by the UK government to reform British information security policy was presented to representatives from the UK Cabinet Office, Ministry of Defense, and Home Office.

The EA continued to interact with stakeholder agencies and listen to their concerns. Given that the CUI Directive is in draft form, continued outreach also aimed to ensure full participation by stakeholders. A significant effort was made to engage all cabinet level departments and represented offices. Given their position in the President's cabinet and their influence over policy, these stakeholders have the greatest ability to affect the overall implementation of the CUI program. Their participation in the program sets an example for independent agencies and other organizations throughout the Executive branch. On the basis of in-depth research conducted on the interests and concerns of stakeholder agencies and, through a series of visits and discussions, the CUI EA engaged and met with senior leadership of 15 cabinet level departments and 3 represented offices, in addition to a number of independent agencies and intergovernmental organizations.

The EA also expanded opportunities to involve and inform critical non-Federal partners by representing the program at conferences, symposiums, and meetings for a range of audiences, including federal, state, local, and tribal governments, the private sector, law enforcement, military, academic, and public interest entities. Each outreach event provided opportunities for stakeholders to learn more about CUI, ask questions regarding implementation, and provide feedback or recommendations on how to improve the overall CUI program.

SUMMARY OF FY2012 PROGRAM ACTIVITY

COMPLIANCE PLANS

Departments and agencies were requested to submit their initial plans for compliance with the Order to the EA no later than December 6, 2011, addressing CUI governance, policy, training, technology, and self-inspection requirements. By the end of the reporting period, the EA had received over 50 compliance plans. The EA evaluated target dates to establish phased implementation of their CUI programs. Such evaluations were made on the basis of continued consultation with affected agencies and the Office of Management and Budget, as required by section 5(b) of the Order.

The EA recognizes that department and agency proposed target dates for implementation will likely require revision in light of forthcoming program guidance, anticipated for FY2013 publication as a federal rule. Upon issuance of such guidance, agencies will be afforded the opportunity to submit updated compliance plans to include revised proposed interim target dates for implementation. Departments and agencies are reminded that CUI categories may not be used until the phased implementation for marking is set, and markings are approved and published in the CUI Registry.

Agency CUI Compliance Plans

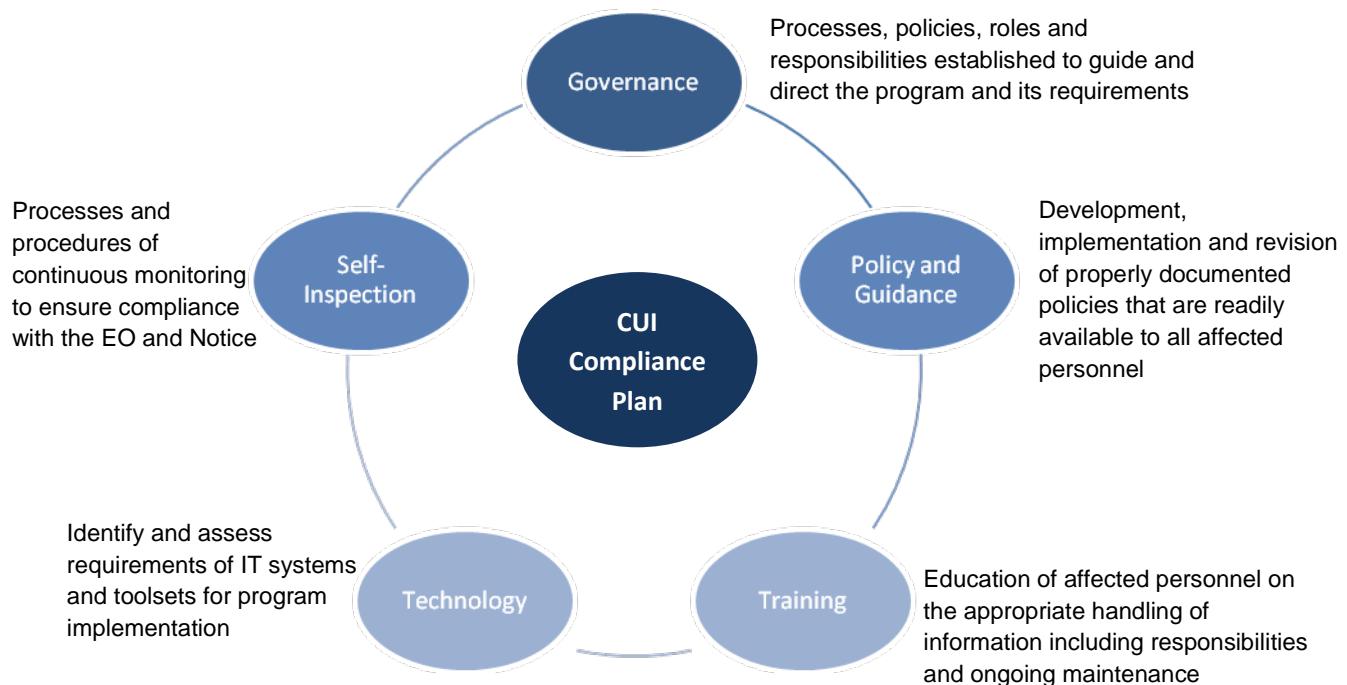


Figure 2

SUMMARY OF FY2012 PROGRAM ACTIVITY

WEBSITE

The CUI website is maintained on an ongoing basis to reflect the background, current status and anticipated progression of the CUI program, as well as regular updates to the United States Code and Code of Federal Regulations for cited authorities in the CUI Registry. The CUI website can be accessed at <http://www.archives.gov/cui/>.

In addition to the CUI Registry, the website includes a CUI program chronology, milestones, annual reports and other EA issuances, training, frequently asked questions, and department/agency resources. 14,835 users accessed the CUI website 20,712 times in FY2012, a visitor increase of 41.33% and visit increase of 34.83% over FY2011.⁴

FY2012 CUI Website Visits

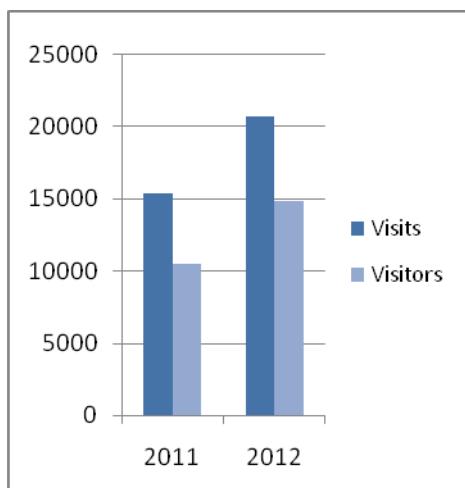


Figure 3

⁴ Website visitor data provided by WebTrends Analytics 8™; report created on Tuesday, October 9, 2012. WebTrends Reporting Center is a web site analysis and tracking tool that delivers real-time, accurate, aggregated data regarding visitors' use of web sites maintained on NARA servers.

NEXT STEPS

MOVING FORWARD

The EA will continue the policy development cycle described above to maintain full engagement of Executive branch departments and agencies as the EA continues to integrate and consolidate all policy elements. Input from non-federal stakeholders will all be considered as the EA completes comprehensive program guidance for submission to the federal rule-making process.

The CUI Registry will be updated to include common definitions and protocols for describing how unclassified information should be marked, and what procedures should be followed for properly safeguarding, disseminating, and decontrolling unclassified information, based on law, regulation, and government-wide policy. Providing clear and readily accessible direction will promote better protection and sharing of unclassified information both internally and externally.

Following the iterative strategy of policy development, the EA plans to develop training modules for each policy component: safeguarding, dissemination, decontrol and marking. Training for *Controlled Unclassified Information (CUI) and the Freedom of Information Act (FOIA)* is expected to launch early in FY2013. Training modules are designed for users at all levels and are publicly available at the CUI website for either direct access or download.

Agency heads are required to establish and manage an agency CUI program that develops and implements agency procedures, roles, and responsibilities regarding CUI in accordance with Executive Order 13556. Such programs must provide training for affected personnel regarding implementation and maintenance of the agency's CUI program, and include a self-inspection program to ensure compliance with the Order. The EA will serve as a resource for departments and agencies to ensure coordination and implementation of CUI policy throughout the Executive branch. Outreach efforts will continue, with particular attention to stakeholder agencies that are newer to the CUI effort.

The goal of the EA is to establish a program that standardizes Executive branch practices for handling unclassified information that requires safeguarding or dissemination controls, pursuant to and consistent with applicable law, regulations, and government-wide policies. The CUI program will emphasize openness, transparency, and uniformity in government-wide practices.





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